

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

I.T.R. Nos.132 of 1996
Date of decision: 09.11.2006

The Commissioner of Income Tax (Central), Ludhiana.

---Applicant

Vs.

M/s B.S. Kohli Synthetics (P) Ltd., Ludhiana.

-----Respondent

CORAM:- HON'BLE MR JUSTICE AJAY KUMAR MITTAL

HON'BLE MR JUSTICE RAJESH BINDAL

Present: Mr. S.K. Garg Narwana, Advocate
for the revenue.

ORDER:

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh, arising out of its order dated 13.09.1994 in I.T.A. Nos.1389/Chandi/89 in respect of assessment year 1984-85:-

“Whether on the facts and in the circumstances of the case, the ITAT was right in law in deleting the disallowance u/s 43B made by the Assessing Officer by holding that the sales tax liability of Rs. 46,637/- is allowable if the payment is made before the due date prescribed under section 139(1) and that 1st proviso to Section 43B has retrospective application though it came into being w.e.f. 1.4.1988?”

It is fairly conceded by the learned counsel for the revenue that the issue is covered against the revenue and in favour of the assessee by the judgment of Hon'ble the Supreme Court in **Allied Motors (P) Limited v. Commissioner of Income Tax** (1997) 224 ITR 677.

Following the above judgment of the Hon'ble Supreme Court, the issue has been decided against the revenue and in favour of the assessee vide order of this Court dated 5.9.2006 in ITR No.94 of 1996, **The Commissioner of Income tax (C), Ludhiana v. M/s Avery Cycle Inds. Pvt. Limited, Ludhiana.**

Accordingly, the question is answered against the revenue and in favour of the assessee.

**(AJAY KUMAR MITTAL)
JUDGE**

November 09, 2006
ashwani

**(RAJESH BINDAL)
JUDGE**